

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

DELMAR D. REED,

Defendant and Appellant.

C081789

(Super. Ct. No. 14F05165)

Appointed counsel for defendant Delmar D. Reed has asked this court to review the record to determine whether any arguable issues exist on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Finding no arguable error that would result in a disposition more favorable to defendant, we will affirm the judgment.

BACKGROUND

A jury found defendant guilty of pandering, that is, persuading or procuring another to become a prostitute (Pen. Code, § 266i, subd. (a)(1); count three), acquitted

him of human trafficking (*id.*, § 236.1, subd. (b); count one), and deadlocked on pimping (*id.*, § 266h, subd. (a); count two). For the pandering count, the trial court imposed the upper term of six years. It ordered various fines and fees, and awarded defendant 305 days of presentence custody credit (153 actual; 152 conduct).

Defendant was tried along with two codefendants. One was his brother, Anton Alvin Perry; the other was Gerald Nehemiah Johnson. Only defendant is a party to this appeal.

Though the record presents multiple timeline inconsistencies, we resolve all explicit evidentiary conflicts in favor of the judgment and presume in its favor all reasonable inferences. (See *People v. Mack* (1992) 11 Cal.App.4th 1466, 1468.)

The victim was 19 at the time of the charged events. Her mother told her to get out of the house during an argument. She met defendant through his younger brother (codefendant) Perry, who picked her up after she left her mother's house. Perry said they were going to his house, but instead they drove to a motel. Defendant was in the car. After spending the day drinking and smoking marijuana with Perry, defendant, and other people in the motel, the victim was drunk and had sex with (codefendant) Johnson and his girlfriend (Jennifer) at the motel.

The next night, Johnson took the victim's cell phone from her and gave her a different phone. He then told her to "choose up" (meaning to select one's pimp). She said she didn't know what he meant. Johnson got upset, saying he "didn't pay a lot of money" for her not to agree. She understood him to mean prostitution. She spent that night at the motel with Johnson and Jennifer.

The next morning, Jennifer woke up the victim saying: "you're part of our team You're now a bitch, you're now a ho [Y]ou choosed up and you choosed to be with my pimp." The victim protested. That day, Johnson and Jennifer took the victim to get her hair and nails done. Johnson paid for it.

At some point, they went to defendant's home. Johnson, Perry, and defendant were there, along with others. Johnson called the victim a "bad bitch" (a compliment), and talked about her becoming his "main bitch" and taking over his girlfriend's position. The victim replied she didn't want to know him like that. Overhearing this, defendant interrupted and told the victim to repeat after him: "I don't appreciate where I'm at and I deserve to be slapped." She refused initially, but when he threatened her, she cried and repeated his statement. Defendant then slapped her on her face, knocking her off balance. Defendant told Johnson he "needed to control his bitches."

Everyone then went back in the house, where the victim witnessed defendant "torturing" another woman at length with a Taser. He waved the Taser at the victim as well. The next day at another hotel, Jennifer took pictures of the victim for online advertizing. Jennifer told her the prices to charge, and Johnson told her to go by the name "Navaeh" and created a webpage for her on Backpage.com, a classified ads website. The next day, she drove with Johnson, defendant, and others to a Santa Cruz motel.

Johnson got scissors and told the victim to cut off all her hair. She refused. He then slapped the scissors out of her hand and hit her face with an open hand. She fell, hit her face on the refrigerator, and passed out for a minute. That night, Johnson threw cold water on the victim and made her sleep on the floor next to the blowing air conditioner.

The next day, Johnson gave her marijuana and alcohol and she got drunk. She was alone in the motel room when a young man arrived, had sex with her, and left \$60 on the dresser. Johnson and defendant came back into the room and the victim gave the money to Johnson who said: "That's my bitch."

They returned from Santa Cruz to a Sacramento hotel, where Johnson told her he would kill her if she called the police. She escaped from the room while the others were sleeping. The police arrived to find her scared and paranoid. Johnson and defendant

were arrested, and multiple cell phones containing evidence of prostitution as well as a Taser were recovered.

DISCUSSION

Counsel filed an opening brief setting forth the facts of the case and requests this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.) Defendant was advised of his right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we have received no communication from defendant. Having examined the record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

/s/
Duarte, J.

We concur:

/s/
Nicholson, Acting P. J.

/s/
Murray, J.